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| 10/821,049 | 04/08/2004 | Dustin Kirkland | AUS920031008US1 | 9648 |

7590 12/10/2008
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| EXAMINER |
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ZUBAJLO, JENNIFER L

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| ART UNIT | PAPER NUMBER |
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2629

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12/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

Response to Arguments

1. Applicant's arguments filed 11/20/08 have been fully considered but they are not persuasive.

Rejections under 35 USC § 101 are withdrawn because of amendment to paragraph [0036] of specification.

Rejections under 35 USC § 103 are maintained as in previous Office Action.

Applicant argues that “in Applicant’s invention, the screen sections are not automatically on the screen” and “because the user has this option, it is necessary to determine whether a display has multiple sections”. Even though Dunn has predefined display sections, it still reads on claimed "determining whether display has multiple sections" because inherently the display would have to determine whether there are multiple sections in order to define the area for these sections and to properly adjust the display portions with movement of the users eye over each different section. Dunn teaches determining whether the display has multiple sections (see Abstract – note that there are multiple sections shown and it is inherent for the processor to determine the number of sections even if it is automatically 2 sections); determining whether a user desires to have section adjustments (see Abstract – note that a user moves his or her

eyes in order to make adjustments to the display sections, therefore, if the user looks at a specific section, the user is making a choice to adjust that section, if the user doesn't look at a section or does not wear the headpiece, then user is choosing to not select a section for adjustment); when the user does desire to have section adjustments, identifying a section selected by user for adjustment and adjusting this section on the display screen (see Abstract – note that the user identifies the section for adjustment by moving his or her eyes over the area he or she wishes to adjust).

Applicant argues that there has to be some teaching suggestion or motivation to modify or combine the cited references. Applicant argues that the Examiner has failed to present a prima facie case of obviousness. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the teaching of valid movement associated with position/motion detection is the teaching taken from Janky and incorporated into the position/motion detection used for adjusting a display taught by Lee (see above rejection). Janky states that position reporting devices are frequently used to locate and report the position of a person or object (see column 1 lines 21-22) which is the motivation/suggestion to combine these references. The multiple display section adjustment taken from Janky

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and incorporated into the combination of Lee and Janky is taken only for the teaching of the multiple sections being adjusted separately and the motivation for this combination is because this is a display device with adjusted movement based on user movement and to make a more user friendly device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the validity of the movements detected by a motion detector taught by Janky and the sectional display with section adjustments taught by Dunn into the method and system for adjusting a screen display based on a user's distance from the display device taught by Lee in order to provide a device which can trigger another electrical device (a display) to perform a particular task (section adjustment) upon entering or leaving a designated location zone (see Janky - column 2 lines 22-24).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER ZUBAJLO whose telephone number is (571)270-1551. The examiner can normally be reached on Monday-Friday, 8 am - 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on (571) 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer Zubajlo/
12/4/08

/Amare Mengistu/
Supervisory Patent Examiner, Art Unit 2629